CALIFORNIA PERS

Circular Letter

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To: COUNTY SUPERINTENDENTS OF SCHOOLS
SCHOOL DISTRICTS
COMMUNITY COLLEGE DISTRICTS

Subject: PRESERVATION OF RETIREMENT BENEFITS FOR EMPLOYEES OF SCHOOL EMPLOYERS

This letter is to inform you of legislation that was recently enacted that may be of interest to you if your office or district is examining budget reduction options.

The condition of the economy in the state is compelling many public agencies to search for ways to cope with their shrinking budgets. Among the alternatives apparently being considered are a temporary reduction of the salary or working hours of some or all of their employees or a personal leave program where employees must take a day or two of unpaid leave each month. Adopting either of these alternatives would not only result in lesser earnings for the employees, it could have the added, and perhaps unintended, disadvantage of reducing their retirement benefits.

Assembly Bill 1817 (Ch. 496, Stats. of 1993) amended Section 20499.5 and added Section 20864.6 to the Government Code with an operative date of September 27, 1993. These statutes give county superintendents of schools, school districts and community college districts the opportunity to preserve the retirement benefits of their employees in a manner determined by the Public Employees' Retirement System (PERS). "Preserving retirement benefits" means maintaining compensation earnable and service credit at the level achieved by the employee prior to a temporary salary or working hour reduction. As you know, for retirement purposes, compensation earnable and service credit are functions of reportable payrate and earnings.

Normal payroll reporting for an employee following a reduction in his or her salary or earnings, would result in either a lower compensation earnable or reduced service credit. Reporting a lower compensation earnable would be disadvantageous only if the reporting period was used in determining final compensation for the employee. Loss of service credit would be a permanent disadvantage.

An agency that wishes to preserve the retirement benefits of those employees who would be adversely affected by a temporary reduction in their salary or working hours may do so by continuing to report the employees' payrate and earnings at the same amount and in the same way as they were reported prior to the reductions, with the understanding that such reporting is subject to PERS' audit. This exceptional reporting procedure, while not normally an acceptable reporting practice, was determined to be the most practical way of maintaining the level of employee benefits in a manner compatible with agency reporting formats and PERS' automated systems. Both employer and employee contributions must continue to be paid based on the employee's usual earnings prior to the reduction in salary or hours. An agency may find that some adjustment is needed between its routine payroll process and its PERS reporting process.

Before implementing the exceptional reporting procedure, the governing body of a county superintendent of schools, school district or community college district must file a resolution with PERS to inform the system of its intention and for audit purposes. The resolution must be in the form as presented (see attached), completed in its entirety, and signed by the presiding officer of the governing body.

The exceptional reporting procedure only applies to the employee who suffers a loss of retirement benefits while continuing in the same position he or she occupied prior to taking a temporary reduction in salary or working hours. It does not apply to the employee where there is a demotion in lieu of layoff, transfer to a part-time position, or any other personnel action where it would be appropriate that there be a salary change or a reduction in working hours. Further, it cannot be used to report an increase in salary above that originally received (before any reduction) except for a scheduled step increase.

Reporting using this procedure must begin with the first pay period following receipt of the agency's resolution by PERS. Retroactive payroll adjustments may be made for salary reductions that occurred on or after July 1, 1992.

Section 20499.5 and Section 20864.6 have a sunset date of January 1, 1996. All exceptional reporting under their provisions must cease as of that date.

If you have any questions regarding this letter or reporting procedures for your agency under this exceptional procedure, please call Mr. Dave Tatlock at (916) 326-3496.

Gary M. Jones, Chief
Member Services Division

Attachments